UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/904,686	07/13/2001	Hiroyo Masuda	FUJY 18.847	5599

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EXAMINER
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ART UNIT	PAPER NUMBER
3687	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	09/904,686	MASUDA ET AL.
	Examiner	Art Unit	
	GARCIA ADE	3687	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12 June 2008</u>.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-7</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-7</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date <u>6/18/08</u>.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application

6)☐ Other: _____ .

DETAILED ACTION

Response to Amendment

1.   The amendment filed on 06212008 has been considered. Applicants amended

claims 1-7.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.

2.   Ascertaining the differences between the prior art and the claims at issue.

3.   Resolving the level of ordinary skill in the pertinent art.

4.   Considering objective evidence present in the application indicating obviousness or

nonobviousness.

4.   Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Yamanoto [US 6,078,663], and further in view of Ehlers et al. [US 6,216,956].

As per claims 1-7, Yamanoto discloses displaying a screen of the user terminal

device [as illustrated in figure 9 (e.g. *a communication terminal that has a*

display device)] to select at least two among a first accounting method, a second

accounting method, and a third accounting method on the user terminal device before

starting a packet communication as the communication service [see abstract (e.g.

accounting circuit for calculating), see summary of the invention (e.g. *quantity of*

data to be enciphered), and see figure 9 (e.g. *communication terminal that has a*

display device)] wherein,

 a) the first accounting method is a method where an accounting quantity is

calculated based on a number of sent/received packets on the packet communication

[see figure 1, via computing unit (e.g. *block 20*)],

 b) the second accounting method is a method where an accounting quantity is

calculated based on quantity of sent/received packets on the packet communication

[see summary of the invention (e.g. number of *calculations* that are performed for

enciphering, i.e., information, such as the *quantity of data*, the number of cryptographic

keys and the *number of feedback calculations*)]; and

 c) the third accounting method is a method where an accounting quantity is

calculated based on time of the packet communication [see summary of the invention

(e.g. as for data in a large quantity, such as image data, for which *high speed real-time*

is required)];

 d) performing the packet communication between the terminal device and a

network [see summary of the invention (e.g. provided is a cryptographic

communication system, which permits a *plurality of terminals on a network to*

communicate enciphered data and selects an enciphering system)];

e) calculating during the packet communication, each of the accounting

quantities corresponding to said at least two accounting methods selected in the user

terminal device in parallel [see figure 1, via computing unit 20 (e.g. *calculation*

amount)], and

f) displaying calculation results of each of the accounting quantities of said at

least two accounting methods on the user terminal device wherein the calculating and

the displaying each of the accounting quantities are executed in real-time [see figure 9

(e.g. *communication terminal that has a display device*)]; and

g) displaying a screen including the accounting quantities corresponding to said

at least two accounting methods after finishing the packet communication, to select one

of said at least two accounting methods to be applied to the packet communications

[see summary of the invention (e.g. *selection means* for selecting an enciphering rate

for the encipher transmission means)]. a default accounting method selected by a

subscriber.

Yamanoto does not explicitly disclose the step of outputting an alarm when at

least one accounting quantity corresponding to one of said at least two accounting

method reaches a predetermined threshold value. However, Ehlers discloses the step

of outputting an alarm, when at least one accounting quantity corresponding to one of

said at least two accounting method reaches a predetermined threshold value [via

process function 35 provides a system monitoring and *alarm process* (e.g. an

intrusion alarm system via a communications channel)].

Therefore it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify Yamanoto to include the step of outputting an alarm. Such a modification would provide a mechanism for activating an alarm when the accounting quantity corresponding to a computation method when reaches a value.

Response to Arguments

5.   Applicants' arguments filed on 06/12/2008 have been fully considered but they are not persuasive.

Applicants argue with respect to claim 1 that Yamamoto does not teach:

(1) displaying a screen of the user terminal device to select at least two among a first accounting methods, a second accounting method, and a third accounting method on the user terminal device before starting a packet communication as the communication service, wherein.., calculated based on time of the packet communication;

(2) calculating, during the packet communication, each of accounting quantities corresponding to said at least two accounting methods selected in the user terminal device, in parallel, and displaying calculation results of each of the accounting quantities of said at least two accounting methods on the user terminal device, wherein the calculating and the displaying each of the accounting quantities are executed in real-time; and

(3) displaying a screen including the accounting quantities corresponding to said at least two accounting methods after finishing the packet communication, to select one of said at least two accounting methods as an accounting method to be applied to the packet communication.

The Examiner respectfully disagrees. Yamamoto discloses a communication device that comprises an enciphering transmitter for enciphering data and transmitting

enciphered data, a method counter for obtaining a count of a quantity of enciphered

data, and an accounting method circuit for calculating, in accordance with the count

held by the counter, an amount to charge a user for the data [see abstract].

Yamanoto further discloses displaying a screen of the user terminal device [as

illustrated in figure 9 (e.g. *a communication terminal that has a display device*)]

to select at least two among a first accounting method, a second accounting method,

and a third accounting method on the user terminal device before starting a packet

communication as the communication service [see abstract (e.g. *accounting circuit for*

calculating), see summary of the invention (e.g. *quantity of data to be enciphered*),

and see figure 9 (e.g. *communication terminal that has a display device*)].

Therefore, Applicants' arguments with respect to the pending claims are deemed

non-persuasive.

Conclusion

6.   Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to GARCIA ADE whose telephone number is (571)272-

5586. The examiner can normally be reached on M-F 8:30AM - 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Matthew S. Gart can be reached on 571.272.3955. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/   Garcia Ade
Supervisory Patent Examiner, Art Unit 3687   Examiner
                                                          Art Unit 3687

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